

REMARKS

Claims 46-55 are pending in the application. In response to this Office Action claims 1-6, 12, 15 and 25-45 have been canceled and claims 46-55 have been added.

Rejection of Claims 12, 25, 26, 30, 32, 33 and 35 under 35 USC 112, second paragraph

Claims 12, 25, 26, 30, 32, 33 and 35 stand rejected under 35 USC 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention.

Claims 12, 25, 26, 30, 32, 33 and 35 have been canceled by this response and replaced with new claims 46-55. New claims 46-55 have been drafted based upon the claims previously present in this application taking the Examiner's comments into consideration. In view of the cancellation of claims 12, 25, 26, 30, 32, 33 and 35 it is respectfully submitted that this rejection is now moot and should be withdrawn.

Rejection of Claims 27, 29, 31, 37 and 39 under 35 USC 102(a)

Claims 27, 29, 31, 37 and 39 stand rejected under 35 USC 102(a) as being anticipated by Barre '889.

Claims 27, 29, 31, 37 and 39 have been canceled by this response. These claims have been replaced by new claims 46-55. Independent claim 46 discloses a toothbrush assembly including a handle and stand. The handle has a first and second end and a bristle head extends from a first side of the first end. The stand and handle are formed as separate elements. The stand is in the shape of feet, the feet are formed together to produce a solid level bottom surface for retaining the handle in a vertical position when the stand is placed on a horizontal surface. The feet extend in a same direction as the bristle head and includes a heel portion being substantially flush with a side of the handle opposite the first side. In a modification, independent claim 52 states that the stand is formed to a second end of the handle.

Specifically claim 46 states:

a) a vertical handle including:

- i) a first end;
- ii) a second end; and
- iii) a bristle head being positioned on said first end and extending from a first side of said handle;

b) a stand having a shape of first and second feet, said first and second feet being positioned together to form a single solid bottom surface, a heel of each of said first and second feet being positioned together to form a single heel surface, said single heel surface including a recess extending through a top side thereof and towards a sole thereof for selectively receiving said second end of said handle and thereby retaining said handle in a vertical position when said stand is placed on a horizontal surface, a front end of said first and second feet extending in a same direction of said bristle head and a back end of said feet being substantially flush with a second side of said handle opposite said first side.

Claim 52 as previously disclosed, states that the stand is formed to a second end of the handle and includes all the limitations of independent claim 46 with the exception of:

[said single heel surface including a recess extending through a top side thereof and towards a sole thereof for selectively receiving said second end of said handle]

The patent to barre discloses a toothbrush assembly including a toothbrush and a stand for holding the brush. The stand includes a cup portion having a cavity within, wherein the second end of the handle can be inserted. A pair of legs separate and unattached to one another, support and are connected to the cup portion. Further included is a foot for each leg, the foot being connected to the lower end of the leg, opposite the cup portion. The feet are also separate and unattached from one another.

This device does not include a stand defined by a pair of feet, whereby a back portion of the feet are substantially flush with a side of the handle opposite the side from which the bristles extend as claimed in independent claims 46 and 52. The feet of Barre are not formed together to produce a solid level bottom surface as claimed in claims 46 and 52. Furthermore, Barre does not provide that the feet form a single heel surface, whereby the single heel surface includes a recess extending through a top side thereof and towards a sole thereof as claimed in independent claim 46. Furthermore, the handle and stand are not secured together as claimed in claim 52.

In view of the above discussed limitations present in the newly added claims distinguishing the present invention from the Barre patent. It is respectfully submitted that this rejection is satisfied and should be withdrawn.

Rejection of Claims 27, 34 and 36 under 35 USC 102(b)

Claims 27, 34 and 36 stand rejected under 35 USC 102(b) as being clearly anticipated by Zandberg et al. '574.

The patent to Zandberg discloses a toothbrush assembly including a stand in the shape of an animated object. The toothbrush includes a stand formed onto an end of a handle opposite the bristles. The stand is in the form of feet extending in a direction opposite the bristles and including a heel portion which extends beyond the handle in a direction opposite the front portion of the stand. These feet are formed as separate elements.

This patent neither describes nor suggests a stand defined by a pair of feet formed together to produce a solid level bottom surface as claimed by independent claims 46 and 52. Further, this patent neither describes nor suggests feet that are positioned to extend in the same direction as the bristles such that a heel or back portion of the feet are substantially flush with a side of the handle opposite the side from which the bristles extend. The stand of this patent extends on both sides of the handle.

Rejection of Claims 28 and 38 under 35 USC 103(a)

Claims 28 and 38 stand rejected under 35 USC 103(a) as being unpatentable over Barre '889 in view of Vandeventer '275.

The patent to Vandeventer discloses a toothbrush and dentifrice device. This patent was cited to show a cover to fit over the bristle head of the toothbrush. This patent neither describes nor suggests a stand defined by a pair of feet, the feet being formed together to produce a solid level surface as claimed by independent claims 46 and 52. Furthermore, this patent neither describes nor suggests feet that are positioned to extend in the same direction as the bristles such that the heel or back portion of the feet are substantially flush with a side of the handle opposite the side from which the bristles extend. In fact this patent does not disclose a stand for retaining the handle in a vertical position.

In view of the above remarks and the addition of the new claims including the limitations discussed above, it is respectfully submitted that this patent when taken alone or in combination with the patent to Barre does not make the present invention unpatentable. It is respectfully submitted that this rejection is satisfied and should be withdrawn.

Rejection of Claims 30, 32 and 40 under 35 USC 103(a)

Claims 30, 32 and 40 stand rejected under 35 USC 103(a) as being unpatentable over Barre '889 in view of Atkins et al. 464.

The patent to Atkins et al discloses a handle in the form of an animal. The handle acts as a stand for the toothbrush and retains the toothbrush in a horizontal position parallel with a horizontal surface when the animal shaped stand is positioned on the horizontal surface. This patent was cited to show the use of bases on stands. In fact this patent illustrates a plurality of bases, one for each foot of the animal shape forming the stand. The present invention only provides a single base on a stand defined by a pair of feet formed together.

This patent neither describes nor suggests a stand defined by a pair of feet, the feet being formed together to produce a solid level bottom surface as claimed by independent claims 46 and 52. This patent also does not disclose retaining the handle in a vertical position. Furthermore, this patent neither describes nor suggests feet that are positioned to extend in the same direction as the bristles such that a heel or back portion of the feet are substantially flush with a side of the handle opposite the side from which the bristles extend.

In view of the above remarks and the addition of the new claims including the limitations discussed above, it is respectfully submitted that this patent when taken alone or in combination with the patent to Barre does not make the present invention unpatentable. It is thus respectfully submitted that this rejection is satisfied and should be withdrawn.

Rejection of Claims 41 under 35 USC 103(a)

Claim 41 stands rejected under 35 USC 103(a) as being unpatentable over Barre '889 in view of Zandberg '574.

In view of the remarks regarding the rejection of the present invention under 35 U.S.C. 102 over both the patent to barre and the patent to Zandberg et al. and the addition of the new claims including the limitations discussed above, it is respectfully submitted that these patents when taken alone or in combination do not make the present invention unpatentable. It is respectfully submitted that this rejection is satisfied and should be withdrawn.

Rejection of Claim 43 under 35 USC 103(a)

Claim 43 stands rejected under 35 USC 103(a) as being unpatentable over Barre '889 in view of Vandeventer '275 and further in view of Zandberg '574.

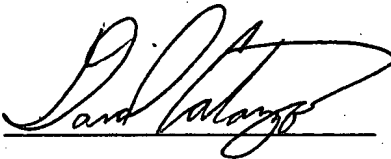
Each of the reference cited in this rejection have been discussed above and in view of the above remarks and limitations present in the new claims, it is respectfully submitted that these references when taken alone or in combination will not make the present invention unpatentable. It is respectfully submitted that this rejection is satisfied and should be withdrawn.

New claims 46-55 have been added to this application. These claims include limitations directed to the distinguishing features outlined above such as the combination of the handle, stand, cover and base to complete an image of an animate object which faces the child during brushing and the connection between the handle and stand to retain the toothbrush in an upright vertical position. In view of the above remarks distinguishing these claims from the prior art cited by the Examiner it is respectfully submitted that these claims are in condition for allowance.

Based upon the foregoing amendments and remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner consider necessary or desirable any formal changes anywhere in the specification, claims and/or drawings, then it is respectfully asked that such changes be made by Examiner's amendment, if the Examiner feels this would facilitate passage of the case to issuance.

Alternatively, should the Examiner have any questions, comments, or feel that a personal discussion might be helpful in advancing this case to allowance and issuance, she is cordially invited to contact Mr. David catanzaro, Inventor/Applicant at 626 Penn Ave. Mayfield, PA 18433, telephone number (717) 876-1009, so that the present application can receive an early notice of allowance.

Respectfully submitted,

By 

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